IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
FIRST APPEAL No. 458 of 2006with
CIVIL APPLICATION NO 2489 OF 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE H.K.RATHOD
THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NATIONAL INSURANCE CO - Appellant(s)
Versus
SUMITRABEN KANUBHAI CHAUHAN & 6 - Defendant(s)

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Appearance :
MR DAKSHESH MEHTA for Appellant(s) : 1,
None for Defendant(s) : 1 - 7.

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CORAM : HONOURABLE MR.JUSTICE H.K.RATHOD

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 03/03/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE H.K.RATHOD)

1. Heard learned advocate Mr. Dakshesh Mehta for appellant National Insurance CO. Ltd. Through this appeal, appellant has challenged award passed by the MACT (Auxi.) Panchmahals at Godhra in Claim Petition NO. 871 of 1999 dated 19th September, 2005 whereby the Claims Tribunal has, while partly allowing claim petition, directed opponents to pay jointly and severally amount of compensation of Rs.13,00,000.00 to claimants with interest thereon at the rate of 9 per cent p.a. From the date of claim petition i.e. From 14.5.99 till realization. Claims Tribunal also directed opponents to deposit amount of compensation with the claims tribunal within two months from the date of said order, after adjusting amount of interim compensation under section 140 of the Motor Vehicles Act, 1988. Claims Tribunal also held that the claimant

no.1 is entitled for Rs.15,000.00 by way of consortium and that was ordered to be separated before it is distributed amongst the claimants.

2. Shortly stated, accident took place on 24th April, 1999 at about 9.00 a.m. At Rinchhvani village in Panchmahals District. Vehicle involved in accident was tempo bearing registration No. GJ-17-X-5336. Deceased Kanubhai Mangabhai aged 33 year, serving as a teacher, was going on his scooter. While he was passing near Rinchhvani village, said offending vehicle being tempo came in excessive speed which was driven by opponent in rash and negligent manner. Tempo thrashed out the scooter which was driven on the left side of the road by deceased. Deceased took his last breath on the spot. It is alleged that the deceased was serving as teacher and was earning salary of Rs.8500.00 p.m. It is also alleged that he was earning Rs.5000.00 from the agricultural land. Based on such facts, claimants filed claim

petition for compensation of Rs.29,50,000.00.

3. Before the Claims Tribunal, opponents NO.1 and 2 appeared in response to the summons but have not filed any written statement to contest the claim. Appellant Insurance Company appeared before the claims tribunal through advocate and filed its written statement vide Exh. 9. Insurance company has not admitted particulars referred to in the petition. It has not admitted the particulars referred to in the claim petition and has contended that the driver of the offending vehicle was not negligent in driving vehicle and has disputed the particulars regarding alleged accident. It has also disputed income and other prospects. Since the claim was not contested by opponents no.1 and 2, appellant insurance company filed application before claim tribunal for permission under section 170 of the Motor Vehicles Act, 1988 to contest claim on all grounds which was granted by claims tribunal vide

order below application Exh. 37.

4. Thereafter, issues have been framed by Claims Tribunal at Exh.14 which are reproduced as under:

(1) Whether it is proved that the deceased sustained injuries and died on account of rashness or negligence in driving on part of the driver of the vehicle involved in the accident ?

(2) What amount, if any, claims are entitled to by way of compensation and from which of the opponents?

(3) What order ?

5. Claims Tribunal considered documentary evidence Complaint Exh.20, Panchanama Exh. 21, Inquest Panchanama Exh.22, driving license of opponent no.1 Exh.23, RC Book of offending vehicle Exh.24; Policy Exh.25; PM Report Exh.26; Copy of charge sheet Exh.27; Driving license of deceased Exh. 28, leaving certificate of deceased

Exh.29; Pay slip of deceased showing salary of Rs.7031/- at Exh.30.

6. Tribunal examined issues in respect of the negligence and relied upon the evidence of claimants and documentary evidence on record. Claims Tribunal considered that driver of offending vehicle has not been examined by the insurance company to controvert version of the claimants as regards rash and negligent driving by driver of offending vehicle. Therefore, considering the evidence on record namely complaint, panchanama, and also considering that the driver of the offending vehicle has not been examined by the insurance company, tribunal held that it was established from record that the accident took place due to negligent driving by driver of offending vehicle. Thereafter, claims tribunal examined question of compensation in light of the salary received by deceased while working as a primary teacher. After considering

the submissions made by the learned advocates for parties and also considering the decision of the Hon'ble apex court in Smt. Sarla Dixit and another versus Balwant Yadav and others, AIR 1996 SC 1274 and other decisions of apex court, the claims tribunal examined aspect of determination of just and fair compensation. Claims Tribunal considered that the incident occurred in the year 1999 and periodical revision and increase in the salary was bound to be there, therefore, Gujarat Formula which has been discussed in Sarla Dixit (supra) has been taken into account by the claims tribunal and after deducting 1/3rd amount of salary towards personal expenses of deceased and looking to the age of deceased (32), multiplier of 15 has been adopted, ultimately, claims tribunal worked out dependency of Rs.7000.00 and then worked out future loss of income of Rs.12,60,000.00 and added to it Rs.15000.00 towards loss of expectation of life, Rs.15000.00 towards consortium, Rs.5000.00 towards

transportation and Rs.5000.00 towards funeral charges and thus awarded total compensation of Rs.13,00,000.00 in favour of claimants. Then, tribunal considered question of interest and after considering decision of Hon'ble apex court in Tamil Nadu ST Corporation Vs. Rajapriya II 2005 ACC 476 (SC)and recent decision of this Court in case of Magan Mansukhbhai Machhi and others Vs. Oriental Insurance CO. and others in First Appeal No. 2380 of 1996 decided on 17.3.2005, wherein this court has awarded interest at the rate of 15%, claims tribunal considered that in the facts and circumstances of this case, accident took place in the year 1999, therefore, interest at the rate of 9 per cent p.a. was awarded by tribunal against opponents jointly and severally.

7. Learned advocate Mr. D.B. Mehta appearing for the Insurance Company has submitted that the tribunal has erred in not deciding question of

contributory negligence though deceased was going on his scooter when he was passing near Rinchhvani village, tempo came in excessive speed and dashed with the scooter and, therefore, Mr. Mehta submitted that it was also a case of contributory negligence on the part of deceased to some extent but the claims tribunal has not at all considered that aspect of the matter and according to him, tribunal has committed an error. Second contention raised by him is that the claims tribunal has committed an error in taking into account future income/future prospects. He placed reliance on the decision of apex court in Tamil Nadu ST Corporation Vs. Rajapriya II 2005 ACC 476 (SC) Third contention raised by Mr. Mehta is that the tribunal has not deducted income tax from future prospects of deceased. He submits that tribunal must deduct income tax from whatever future prospects is assessed by tribunal. He submits in Rajapriya (supra), apex court has not accepted the

principles of future prospects and, therefore, tribunal has committed error in considering future prospects while assessing compensation. According to him, tribunal has also erred in not deciding contributory negligence of deceased. Except these submissions, no other submissions were made by Mr. Mehta before this Court. No other decisions were cited by him before this Court.

8. We have perused impugned award. We have considered submissions made by Mr. Mehta before us. As regards submission of contributory negligence, claims tribunal has rightly relied upon the evidence of claimant and documentary evidence on record, in absence of the oral evidence of the driver of offending vehicle. Tribunal has rightly considered that the driver of offending vehicle was not examined by the insurance company to controvert the version of the claimants. In view of these observations

made by the claims tribunal in para 8 of award, according to our opinion, there is no question of deciding contributory negligence of deceased for want of evidence on record about contributory negligence of deceased scooterist, for want of examination of driver of offending vehicle. Thus, as there was no material on record which would require examination of the question of contributory negligence of deceased, therefore, tribunal has rightly decided issue no. 1 in favour of claimants and in doing so, no error was committed by tribunal.

9. As regards contention of Mr. Mehta that the tribunal has not deducted amount of income tax from the future income assessed by it, after going through entire award made by tribunal, it appears that no such submission was made by the appellant before claims tribunal and it appears that it is raised before this court for the first time. Learned advocate Mr. Mehta fairly admitted

that no such submission was made by appellant before claims tribunal and it is being raised before this court in this appeal for the first time. Therefore, since appellant cannot be permitted to raise such contention which it has not raised before tribunal and, therefore, this contention is rejected. Even otherwise, Mr. Mehta is not able to satisfy us that whether any taxable income was assessed by Claims Tribunal while determining compensation, merely raising such technical contention without factual data cannot be examined by this Court.

10. As regards third contention raised by Mr. Mehta that the tribunal has committed error in assessing future prospects and as not properly appreciated decision in Tamil Nadu ST Corporation Vs. Rajapriya II 2005 ACC 476 (SC), we have considered the said decision. In said decision, apex court has not considered earlier decision in Smt. Sarla Dixit (supra). There is no discussion

in the entire decision as to whether future income has to be taken into account or not. This question has not been examined by apex court in Tamil Nadu ST Corporation Vs. Rajapriya II 2005 ACC 476 (SC). In said decision, general principles of assessment has been discussed but nowhere it is observed that while ascertaining loss of dependency, future prospects should not have to be taken into account. Learned advocate Mr. Mehta has not been able to point out from entire decision as to whether that question has been examined by the supreme court or not, therefore, in the facts of this case, said decision in Tamil Nadu ST Corporation Vs.S. Rajapriya II 2005 ACC 476 (SC) is not helpful to appellant. In case of S. Rajpriya, apex court has not decided question whether future prospects/income should have to be taken into account or not. There is no ratio laid down by apex court in this case. Apex court has discussed various theory in determining

compenstion in case of fatal accident. Apex court has discussed theory but there is no decision or examination of question which has been raised by learned advocate Mr. Mehta. Apex court has examined matter on facts of that case. Therefore, no ratio is laid down by apex court that while calculating compensation or while assessing compensation, future prospects/income should not have to be taken into account. It is an acceptable principle developed by various decisions of apex court that in case of fatal accident, existing income at the time of death of a person and his future prospects to receive more income if he would have survived for a long period are relevant factors for assessing compensation. To arrive at a datum figure of dependency, apex court has, in detail, considered in case of Smt. Sarla Dixit (supra). What is the ratio or binding force of decision has been considered by apex court in the case of Union of India v. Dhanwanti Devi (1996) 6 SCC 44 : (1996

AIR SCW 4020), the apex court has settled the law with regard to the circumstances where a decision will constitute a binding precedence. Their Lordships observed (at pages 4024-4025 of AIR SCW):-

> "A decision is only an authority for what it actually decides. What is of the e ssence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in the judgment. Every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there is not intended to be explosion of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. It would, therefore, be not profitable to extract a sentence here and there from the judgment and to build upon it because the essence of the decision is its ratio and not every observation found therein.
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> Their Lordships further observed :-
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> "Therefore, in order to understand and appreciate the binding force of a

> decision it is always necessary to see what were the facts in the case in which the decision was given and what was the point which had to be decided.No judgment can be read as if it is a statute. A word or a clause or a sentence in the judgment cannot be regarded as a full exposition of law. Law cannot afford to be static and therefore Judges are to employ an intelligent technique in the use of precedents."

In case of Sarla Dixit (Supra), aspect of adoption of proper multiplier method has been discussed by adopting method to be kept in mind existing income and then to find out datum figure after adding amount of average gross monthly future income as discussed in para 6 of the said decision. Relevant observation made by Hon'ble apex court in para 6 of said decision are reproduced as under:

> "So far as the adoption of the proper multiplier is concerned, it was observed that the future prospects of advancement in life and career should also be sounded

in terms of money to augment the multiplicand. While the chance of multiplier is determined by two factors, namely, the rate of interest appropriate to a stable economy and the age of the deceased or of the claimant whichever is higher, the ascertainment of the multiplicand is a more difficult exercise. Indeed, many factors have to be put into the scales to evaluate the contingencies of the future. All contingencies of the future need not necessarily be baneful. Applying these principles to the facts of the case before this Court in the aforesaid case it was observed that the deceased in that case was of 39 years of age. His income was Rs.1,032/- per month. He was more or less on a stable job and considering the prospects of advancement in future career the proper higher estimate of monthly income of Rs.2,000/- as gross income to be taken as average gross future income of the deceased and deducting at least 1/3rd therefrom by way of personal living expenses, had he survived the loss of dependency, could be capitalized by adopting the multiplicand of Rs.1,400/- per month or Rs.17,000/- per

year and that figure could be capitalized by adopting multiplier of 12 which was appropriate to the age of the deceased being 39 and to that amount was added the conventional figure of Rs.15,000/- by way of loss of consortium and loss of estate. Adopting the same scientific yardstick as laid down in the aforesaid judgment, the computation of compensation in the present case can almost be subjected to a well settled mathematical formula. This is in the present case, as seen above, was earning gross salary of Rs.1,543/- per month. Rounding it up to figure of Rs.1,500/- and keeping in view all the future prospects, which the deceased had in stable military service in the life of his brilliant academic record and performance in the military service spread over seven years, and also keeping in view the other imponderables like accidental death while discharging military duties and the hazards of military service, it will not be unreasonable to predicate that his gross monthly income would have shot up to at least double than what he was earning at the time of his death, i.e. up to Rs.3,000/- per month had he survived in

life and had successfully completed his future military career till the time of superannuation. The average gross future monthly income could be arrived at by adding the actual gross income at the time of death, namely, Rs.1,500/- per month to the maximum which he would have otherwise got had he not died a premature date, i.e. Rs.3,000/- per month and dividing that figure by two. Thus, the average gross monthly income spread over his entire future career, had it been available, would work out to Rs.4,500/- divided by 2, i.e. Rs.2,200/-. Rs.2,200/- per month would have been the gross monthly average income available to the family of the deceased had he survived as a bread winner. From the gross monthly income at least 1/3rd will have to be deducted by way of his personal expenses and other liability like payment of income-tax etc. That would roughly work out of Rs.730/- per month but even taking a higher figure of Rs.750/- per month and deducting the same by way of average personal expenses of the deceased from the average gross earning of Rs.2,200/- per economic loss suffered by the appellants on account of

untimely death of the bread winner. As the age of the deceased was 27 years and a few months, at the time of his death the proper multiplier in the light of the aforesaid decision of this Court in General Manager, Kerala, State Road Transport Corporation, Trivandrum, (1994 AIR SCW 1356) (supra), would be 15. Rs.18,000/- multiplied by 15 will work out to Rs.2,70,000/-. To economic loss suffered by the appellants on account of untimely death of the bread winner. As the age of the deceased was 27 years and a few months, at the time of his death the proper multiplier in the light of the aforesaid decision of this Court in General Manager, Kerala, State Road Transport Corporation, Trivandrum, (1994 AIR SCW 1356) (supra), would be 15. Rs.18,000/- multiplied by 15 will work out to Rs.2,70,000/-. To this figure will have to be added the conventional figure of Rs.15,000/- by way of of loss of estate and consortium etc. That will lead to a total figure of Rs.2,85,000/-. This is the amount which the appellants would be entitled to get by way of compensation from respondents Nos.1 and 2 subject to

our decision on point No.2."his figure will have to be added the conventional figure of Rs.15,000/- by way of of loss of estate and consortium etc. That will lead to a total figure of Rs.2,85,000/-. This is the amount which the appellants would be entitled to get by way of compensation from respondents Nos.1 and 2 subject to our decision on point No.2."month balance of Rs.1,450/- which can be rounded up to Rs.1,500/- per month would have been the average amount available to the family of the deceased i.e. his dependents, namely appellants herein. It is this figure which would be the datum figure per month which on annual basis would work out to Rs.18,000/-. Rs.18,000/- therefore, would economic loss suffered by the appellants on account of untimely death of the bread winner. As the age of the deceased was 27 years and a few months, at the time of his death economic loss suffered by the appellants on account of untimely death of the bread winner. As the age of the deceased was 27 years and a few months, at the time of his death the proper multiplier in the light of the aforesaid decision of this Court in General Manager,

Kerala, State Road Transport Corporation, Trivandrum, (1994 AIR SCW 1356) (supra), would be 15. Rs.18,000/- multiplied by 15 will work out to Rs.2,70,000/-. To this figure will have to be added the conventional figure of Rs.15,000/- by way of of loss of estate and consortium etc. That will lead to a total figure of Rs.2,85,000/-. This is the amount which the appellants would be entitled to get by way of compensation from respondents Nos.1 and 2 subject to our decision on point No.2."th the proper multiplier in the light of the aforesaid decision of this Court in General Manager, Kerala, State Road Transport Corporation, Trivandrum, (1994 AIR SCW 1356) (supra), would be 15. Rs.18,000/- multiplied by 15 will work out to Rs.2,70,000/-. To this figure will have to be added the conventional figure of Rs.15,000/- by way of of loss of estate and consortium etc. That will lead to a total figure of Rs.2,85,000/-. This is the amount which the appellants would be entitled to get by way of compensation from respondents Nos.1 and 2 subject to our decision on point No.2." be the proper multiplicand which would be available, for

> capitalization for computing the future economic loss suffered by the appellants on account of untimely death of the bread winner. As the age of the deceased was 27 years and a few months, at the time of his death the proper multiplier in the light of the aforesaid decision of this Court in General Manager, Kerala, State Road Transport Corporation, Trivandrum, (1994 AIR SCW 1356) (supra), would be 15. Rs.18,000/- multiplied by 15 will work out to Rs.2,70,000/-. To this figure will have to be added the conventional figure of Rs.15,000/- by way of of loss of estate and consortium etc. That will lead to a total figure of Rs.2,85,000/-. This is the amount which the appellants would be entitled to get by way of compensation from respondents Nos.1 and 2 subject to our decision on point No.2."

In view of the above observations made by the apex court, according to our opinion, no such question was examined by apex court in case of S. Rajpriya (supra) as contended by learned advocate Mr. Mehta. Decision of apex court in Smt. Sarala Dixit (supra) was examined by Division Bench of this Court in case of

Ritaben alias Vanitaben and another versus Ahmedabad Municipal Transport Service and another reported in 2000 ACJ 153. Relevant discussion made by Division Bench in para 6, 8 and 9 is reproduced as under

> "6. It is a settled proposition of that the main anxiety of the Tribunal in such case should be to see that the heirs and legal representatives of the deceased are placed, as far as possible, in the same financial position, as they would have been, had there been no accident. It is, therefore, an action based on the doctrine of compensation. It is an award in terms of money, as otherwise the human life or loss of limb are invaluable and no amount of money can compensate or substitute. Though the Tribunal has considered and assessed compensation under both the recognized heads in this case of fatal injury but has committed serious error in reaching to the conclusion that the consolidated amount of compensation of Rs.1,36,280 is just and proper. The factors which are considered for determining the net loss of annual utility of the deceased to the common family funds and the adopting of 20 multipliers, are not reflecting the just and reasonable amount of compensation in the light of the facts of the present case as envisaged by the provisions of Section 110 of the old Act (Section 166 of the New Act).
>
> 7. xxx xxx
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> 8.It is a settled proposition of law that with a view to award a just and reasonable amount of compensation in a case of fatal injury, it is incumbent upon the Tribunal to consider as to what was the income at the relevant time of the accident and what would have been or probable prospective earnings in the later years of the life. The amount of income prevalent at the relevant time, in absence of any other evidence, is required to be doubled and then divided by half so as to reflect the prospective average income for the purpose of determining the datum figure. It is an admitted fact that the Tribunal has, totally, lost sight of the material point of considering prospective earnings of the deceased. This proposition of law is very well settled and, extensively, explored by catena of judicial pronouncements and it would not detain us any longer on this aspect.
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> 9. After having taken into consideration the relevant factual scenario emerging from the facts of the present case and having heard learned advocates appearing for the parties, even in absence of any other evidence, an able-bodied young man of 25 years otherwise also presumed

> to earn an amount of Rs.1000 or more per month. On that basis the prospective income could be calculated by doubling the one prevalent on the date of the accident, which is required to be divided by half, so as to reach the correct datum figure which is required to be multiplied by appropriate multiplier. Even taking a conservative view in the matter, the deceased would be earning not less than an amount of Rs.1000 per month and considering the prospective average income of Rs.2000 and divided by half, would, obviously, come to Rs.1500. Even though there were nine units in the family, an amount of Rs.500 could be deducted for the expenditure of the deceased himself for his personal upkeep. Thus, his net contribution to the common family fund, in any case, would not be less than Rs.1000 per month. In other words, the annual utility to the common family fund would be Rs.12000. The Tribunal has, unfortunately, adopted multiplier of 20. In our opinion, multiplier of 20 is on higher side and in view of the celebrated decisions on this score, it would be just and reasonable to adopt in the present case the multiplier of 16. Therefore, the claimants shall be entitled to an amount of Rs.12,000 x 16 = Rs.1,92,000. Therefore, we have no hesitation in finding that the claimants are entitled to an amount of Rs.1,92,000 under the head of loss of dependency value. Obviously, the claimants would be entitled to the then conventional amount of Rs.10,000 under the head of loss of expectation of life. The claimants also shall be entitled to an amount of Rs.3,000 for funeral expenses. In the result, the claimants shall be entitled to, in aggregate, an amount of Rs.2,05,000. The consolidated sum of Rs.1,36,280 awarded by the Tribunal in both the claim petitions filed by the widow and minor on one hand and the parents of the deceased on the other, is required to be deducted so as to reach the additional amount of compensation to which the claimant will be entitled to. Consequently, the claimant shall be entitled to Rs.68,720 (Rs.2,05,000 minus Rs.1,36,280 = Rs.68,720) by way of additional amount of compensation, which is required to be rounded off to Rs.70,000. Accordingly, the claimant shall be entitled to, in aggregate, an additional amount of Rs.70,000 against the additional claim of Rs.1,00,000 in the present appeal, with interest at the rate of 12% per annum from the date of the application till the date of payment with proportionate costs.

We have considered both the decisions referred to above and also kept in mind the factual aspect of the matter. Whether the award made by the Claims Tribunal granting compensation

of Rs.13 lacs in favour of claimants is just and reasonable award or not, this aspect can be considered in a different manner also. According to the pay slip, salary of the deceased was Rs.7031/- at the time when deceased died. He was aged 32 years at that time. Tribunal awarded Rs.13,00,000.00 to claimants. If this amount of Rs.13,00,000.00 is invested with Nationalized Bank and the rate of interest on such investment is 6 per cent, then, monthly interest of total amount would be of Rs.6500.00, meaning thereby, whatever income dependents were receiving from the deceased, almost nearby amount will now be received by claimants from such investment of compensation. From that angle also, according to our opinion, award passed by the claims tribunal is not excessive and/or on higher side.

11. Decision of apex court in Smt. Sarla Dixit (supra) was folowed by the Claims Tribunal. Relevant discussion made by the Claims Tribunal

in paragraph 9 is reproduced as under:

> " I have given due consideration to the submissions made by both the parties. In my opinion, in absence of any express document regarding land and regarding income, it is not possible to believe that he was earning Rs.5,000.00 from the agricultural land. So far as the income from the service is concerned, the certificate Exh.30 shows that his salary was Rs.7,031/- per month, which can be rounded up to Rs.7,000.00 per month. The Ld. Advocate Mr. D.P. Mehta has submitted that the prospective income cannot be worked out but having regard to the ratio laid down by the Apex Court in Sarala Dixit Vs. Balvant Yadav, 1996 (2) TAC (1), and a catena of decisions of the Apex Court while arriving on the determination of the just and fair compensation, the Tribunal has to pay due regard to such factor. Undisputedly, the deceased was a teacher and the incident had taken place in 1999, therefore, periodical revision and income in salary was bound to take place. In my opinion, therefore, having followed the ratio in Sarla Dixit case (supra) the future prospective income of

the deceased can be believed Rs.10,500/-. As it is laid down by number of decisions, 1/3rd share of the salary is required to be deducted towards personal expenses, which the deceased would have made, if his life would not have been cut short. Deducting this amount of 1/3rd share, the dependency would come to Rs.7,000/- per month."

12. In view of above observations made by apex court in Smt. Sarla Dixit (Supra), and the decision of the Division Bench of this Court in Ritaben alias Vanitaben and another versus Ahmedabad Municipal Transport Service and another reported in 2000 ACJ 153, wherein also, apex court decision in Smt. Sarla Dixit was considered, claims tribunal was right in applying ratio of law keeping in view future prospects/income of deceased and looking to age of deceased 32 years, was right in applying multiplier of 15 and keeping in view the decision of Division Bench of this Court in Maganbhai Manubhai Machhi (supra) while awarding interest at the rate of 9% and in doing so, tribunal has

not committed any error.

13. In view of our above considered opinion, tribunal has not committed any error while fixing amount of compensation and adopting multiplier of 15 looking to the age of deceased. Rate of interest has been rightly fixed by claims tribunal. Therefore, submissions made by Mr. Mehta before this court are not acceptable and same are, therefore, rejected. According to our opinion, award in question is not on its higher side or excessive or exorbitant and, therefore, there is no substance in this appeal filed by the Insurance Company.

14. In result, this appeal is dismissed. Civil Application is disposed of as not surviving. Amount of Rs.25,000.00 deposited by appellant in Registry of this Court under section 173 of Motor Vehicles Act, 1988 be transmitted to Claims Tribunal immediately. The

appellant Company will deposit the amount of compensation with interest before the Claims Tribunal within two months. Thereafter, the Claims Tribunal will disburse the amounts to claimants accordingly.

(H.K. Rathod,J.)

(Abhilasha Kumari,J.)

Vyas